

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS

JOSE PEREZ,) Case No.:
Plaintiff,)
vs.)
NATIONAL CREDIT AUDIT) COMPLAINT
CORPORATION,)
Defendant.)

)

Plaintiff, Jose Perez (hereinafter “Plaintiff”) alleges:

PRELIMINARY STATEMENT

1. This is an action for damages arising from violations of the Fair Debt Collections Practices Act, 15 U.S.C. §1692 *et seq.* (hereinafter “FDCPA”).

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1331 and 15 U.S.C. §1692k (d).

3. Venue is proper in this district under 28 U.S.C §1391(b).

PARTIES

4. Plaintiff is a natural person who at all relevant times has resided in El Paso, Texas.

5. Defendant National Credit Audit Corporation regularly conducts business in Texas, with its principal place of business located at 12770 Coit Rd., Suite 1000, Dallas, Texas 75251.

FACTUAL STATEMENT

6. On a date better known by Defendant, Defendant initiated collection efforts against Plaintiff in the form of letters and phone calls.
7. The alleged debt arose out of rent arrears from Plaintiff's personal residence.
8. On or about February 2018, Plaintiff called Defendant to resolve the issue and discuss payment terms.
9. During the course of this conversation, after rejecting Plaintiff's request to enter into a payment plan, Defendant stated that if a payment was not made that day, a significant collection fee would be added.
10. Defendant had no right to demand such a fee as Texas law does not provide express permission to provide such a fee, and the underlying contract with the creditor did not provide for an excessive collection fee.
11. Further, upon information and belief, Defendant never actually intended to charge such a fee in the event Plaintiff did not make payment that day.
12. Defendant's false and deceptive conduct violate the FDCPA.

COUNT I
VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT

13. Plaintiff realleges the above paragraphs as if recited specifically set forth at length herein.
14. Defendant's false and deceptive conduct violates 15 U.S.C. §§ 1692e, e(2), e(5) and e(10).
15. Defendant's unfair conduct also violates 15 U.S.C. § 1692f(1).

WHEREFORE, Plaintiff, Jose Perez, respectfully requests that this Court do the following for the benefit of Plaintiff:

- A. Enter judgment against Defendant for statutory and actual damages, pursuant to 15 U.S.C. § 1692k;
- B. Award costs and reasonable attorneys' fees, pursuant to 15 U.S.C. § 1692k; and,
- C. Grant such other and further relief as may be just and proper.

JURY TRIAL DEMAND

16. Plaintiff demands a jury trial on all issues so triable.

Dated this 1st of November, 2018.

Respectfully Submitted,

/s/ Daniel Zemel
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